

HOUSE No. 901

By Mr. Rogers of Norwood, petition of Michael G. Bellotti and others relative to increasing the penalties for certain crimes committed against law enforcement officials. The Judiciary.

The Commonwealth of Massachusetts

PETITION OF:

Michael G. Bellotti	Brian A. Joyce
Louis L. Kafka	MCOFU
Michael W. Morrissey	IBPO/IBCO
William C. Galvin	Paul J. Donato
A. Stephen Tobin	Walter F. Timilty
Robert K. Coughlin	

In the Year Two Thousand and Five.

AN ACT INCREASING THE PENALTIES FOR CERTAIN CRIMES COMMITTED AGAINST LAW ENFORCEMENT OFFICIALS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 38A of Chapter 127 of the General Laws,
2 as appearing in the 2002 Official Edition, is hereby amended by
3 inserting after the word "by" the following:— a minimum manda-
4 tory sentence of not less than two and one half years in a house of
5 correction and may also be sentenced to

1 SECTION 2. Said section 38A of said chapter 127, as so
2 appearing, is hereby further amended by inserting the following
3 sentence at the end thereof:— Such sentence shall begin from and
4 after all sentences currently outstanding and reserved at the time
5 of said holding of hostages. A person convicted of violating any
6 provisions of said section shall not, until he or she shall have
7 served the mandatory minimum term of imprisonment establish,
8 in said sections, be eligible for probation, parole, furlough, work

9 release, or receive any deduction from his or her sentence for
10 good conduct. However, the commissioner of correction may, on
11 the recommendation of the warden, superintendent, or other
12 person in charge of the correctional institution, grant to said
13 offender a temporary release in the custody of an officer of such
14 institution for the following purposes: to attend a funeral of a
15 relative, to visit a critically ill relative, or to obtain emergency
16 medical or psychiatric services unavailable at said institution.

1 SECTION 3. Section 38B of said Chapter 127, as appearing in
2 the 2002 Official Edition, is hereby amended by striking out the
3 words “ten years” and inserting in place thereof the words:— a
4 mandatory minimum sentence of one year up to not more than ten
5 years.

1 SECTION 4. Said section 38B of said chapter 127, as so
2 appearing, is hereby further amended by striking out the words
3 “other employee” and inserting in place thereof the words:— any
4 correctional officer or employee of a county or state correctional
5 facility, including the sheriff, superintendent, assistant superinten-
6 dent, assistant deputy superintendent, any employee of the depart-
7 ment of correction who are employed at any correctional
8 institution as well as any member of a police or fire department.

1 SECTION 5. Said section 38B of said chapter 127, as so
2 appearing, is hereby further amended by inserting at the end
3 thereof the following:— A person convicted of violating any pro-
4 visions of said section shall not, until he or she shall have served
5 the mandatory minimum term of imprisonment establish, in said
6 sections, be eligible for probation, parole, furlough, work release,
7 or receive any deduction from his or her sentence for good con-
8 duct. However, the commissioner of correction may, on the rec-
9 ommendation of the warden, superintendent, or other person in
10 charge of the correctional institution, grant to said offender a tem-
11 porary release in the custody of an officer of such institution for
12 the following purposes: to attend a funeral of a relative, to visit a
13 critically ill relative, or to obtain emergency medical or psychi-
14 atric services unavailable at said institution.

1 SECTION 4. Section 13D of Chapter 265 of the General Laws,
2 as appearing in the 2002 Official Edition, is hereby amended by
3 striking out the words “ninety days, nor more than two and one
4 half years in a house of correction or by a fine of not less than five
5 hundred nor more than five thousand dollars”, and inserting in
6 place thereof the following words:— not less than two and a half
7 years in the house of correction or five years in state prison. Said
8 sentence shall begin from and after all sentences currently out-
9 standing and reserved at the time of said assault.

1 SECTION 5. Section 13H of Chapter 265 of the General Laws,
2 as appearing in the 2002 Official Edition, is hereby amended by
3 inserting after the first paragraph the following paragraph:—
4 Whoever commits an indecent assault and battery on any cor-
5 rectional officer or employee of a county or state correctional
6 facility, including the sheriff, superintendent, assistant superinten-
7 dent, assistant deputy superintendent, any employee of the depart-
8 ment of correction who are employed at any correctional
9 institution as well as any member of a police or fire department
10 when said persons are engaged in the performance of his duties,
11 shall be punished by imprisonment in the house of correction for a
12 minimum for two and one half years or for not more than five
13 years in a state prison. Said sentence shall begin from and after all
14 sentences currently outstanding and reserved at the time of said
15 assault.

1 SECTION 6. Section 15 of Chapter 265 of the General Laws,
2 as appearing in the 2002 Official Edition, is hereby amended by
3 inserting after the first paragraph the following paragraph:—
4 Whoever assaults a correctional officer or employee of a county
5 or state correctional facility, including the sheriff, superintendent,
6 assistant superintendent, assistant deputy superintendent, any
7 employee of the department of correction who are employed at
8 any correctional institution as well as any member of a police or
9 fire department with intent to commit murder, or to maim or dis-
10 figure his person in any way described in the preceding section,
11 while said officer or employee is engaged in the performance of
12 his duties; shall be punished by imprisonment in the state prison
13 for a minimum mandatory sentence of five years not to exceed

14 twenty years in a state prison. Said sentence shall begin from and
15 after all sentences currently outstanding and reserved at the time
16 of said assault. A person convicted of violating any provisions of
17 said section shall not, until he or she shall have served the manda-
18 tory minimum term of imprisonment establish, in said sections, be
19 eligible for probation, parole, furlough, work release, or receive
20 any deduction from his or her sentence for good conduct. How-
21 ever, the commissioner of correction may, on the recommendation
22 of the warden, superintendent, or other person in charge of the
23 correctional institution, grant to said offender a temporary release
24 in the custody of an officer of such institution for the following
25 purposes: to attend a funeral of a relative, to visit a critically ill
26 relative, or to obtain emergency medical or psychiatric services
27 unavailable at said institution.

1 SECTION 7. Section 22 of Chapter 265 of the General Laws,
2 as appearing in the 2002 Official Edition, is hereby amended by
3 inserting after paragraph (b), the following paragraph:—

4 (c) Whoever has sexual intercourse or unnatural sexual inter-
5 course with a correctional officer or employee of a county or state
6 correctional facility, including the sheriff, superintendent, assis-
7 tant superintendent, assistant deputy superintendent, any
8 employee of the department of correction who are employed at
9 any correctional institution as well as any member of a police or
10 fire department while said person is engaged in the performance
11 of his duties and compels such persons to submit by force and
12 against his will, or compels said persons to submit by threat of
13 bodily injury, shall be punished by imprisonment in the state
14 prison a mandatory minimum sentence of twenty years and up to a
15 life sentence. Said sentence shall begin from and after all sen-
16 tences currently outstanding and reserved at the time of said
17 assault.

1 SECTION 8. Section 24 of Chapter 265 of the General Laws,
2 as appearing in the 2002 Official Edition, is hereby amended by
3 inserting after the first paragraph the following new paragraph:—

4 Whoever assaults a correctional officer or employee of a county
5 or state correctional facility, including the sheriff, superintendent,
6 assistant superintendent, assistant deputy superintendent, any

7 employee of the department of correction who are employed at
8 any correctional institution as well as any member of a police or
9 fire department with intent to commit a rape while said person is
10 engaged in the performance of his duties shall be punished by
11 imprisonment in the state prison for a minimum mandatory sen-
12 tence of five years up to a life sentence. Such sentence shall
13 begin from and after all sentences currently outstanding and
14 reserved at the time of said assault with intent to rape. A person
15 convicted of violating any provisions of said section shall not,
16 until he or she shall have served the mandatory minimum term of
17 imprisonment establish, in said sections, be eligible for probation,
18 parole, furlough, work release, or receive any deduction from his
19 or her sentence for good conduct. However, the commissioner of
20 correction may, on the recommendation of the warden, superinten-
21 dent, or other person in charge of the correctional institution,
22 grant to said offender a temporary release in the custody of an
23 officer of such institution for the following purposes: to attend a
24 funeral of a relative, to visit a critically ill relative, or to obtain
25 emergency medical or psychiatric services unavailable at said
26 institution.

1 SECTION 9. Section 43 of Chapter 265 of the General Laws,
2 as appearing in the 2002 Official Edition, is hereby amended by
3 inserting after paragraph (b) the following new paragraph:—

4 (c) Whoever commits the crime of stalking against a correc-
5 tional officer or employee of a county or state correctional facility,
6 including the sheriff, superintendent, assistant superintendent,
7 assistant deputy superintendent, any employee of the department
8 of correction who are employed at any correctional institution as
9 well as any member of a police or fire department shall be pun-
10 ished by imprisonment in the state prison for a minimum of one
11 year. No sentence imposed under the provisions of this subsection
12 shall be less than a mandatory minimum term of imprisonment for
13 one year. Such sentence shall begin from and after all sentences
14 currently outstanding and reserved at the time of said crime. A
15 person convicted of violating any provisions of said section shall
16 not, until he or she shall have served the mandatory minimum
17 term of imprisonment establish, in said sections, be eligible for
18 probation, parole, furlough, work release, or receive any deduc-

19 tion from his or her sentence for good conduct. However, the
20 commissioner of correction may, on the recommendation of the
21 warden, superintendent, or other person in charge of the correc-
22 tional institution, grant to said offender a temporary release in the
23 custody of an officer of such institution for the following pur-
24 poses: to attend a funeral of a relative, to visit a critically ill
25 relative, or to obtain emergency medical or psychiatric services
26 unavailable at said institution.